



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R07-OAR-2022-0382; FRL-9767-01-R7]

**Air Plan Approval; Missouri; Removal of Control of Emissions
from Bakery Ovens**

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing approval of a State Implementation Plan (SIP) revision submitted by the State of Missouri on January 15, 2019 and supplemented by letter on July 11, 2019. Missouri requests that the EPA remove from its SIP a rule related to control of emissions from bakery ovens in St. Louis City and Jefferson, St. Charles, Franklin, and St. Louis Counties. The EPA's proposed approval of this rule revision is in accordance with the requirements of the Clean Air Act (CAA).

DATES: Comments must be received on or before **[insert date 30 days after date of publication in the Federal Register]**.

ADDRESSES: You may send comments, identified by Docket ID No. EPA-R07-OAR-2022-0382 to <https://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions received must include the Docket ID No. for this rulemaking. Comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided. For detailed instructions on

sending comments and additional information on the rulemaking process, see the "Written Comments" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: William Stone, Environmental Protection Agency, Region 7 Office, Air Quality Planning Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219; telephone number: (913) 551-7714; email address: stone.william@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document "we," "us," and "our" refer to the EPA.

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I. Written Comments

Submit your comments, identified by Docket ID No. EPA-R07-OAR-2022-0382, at <https://www.regulations.gov>. Once submitted, comments cannot be edited or removed from Regulations.gov. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to

make. The EPA will generally not consider comments or comment contents located outside of the primary submission (i.e. on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit <https://www.epa.gov/dockets/commenting-epa-dockets>.

II. What is Being Addressed in this Document?

The EPA is proposing to approve the removal of 10 Code of State Regulation (CSR) 10-5.440, *Control of Emissions From Bakery Ovens*, from the Missouri SIP.

Section 110(l) of the CAA prohibits the EPA from approving a SIP revision that interferes with any applicable requirement concerning attainment and reasonable further progress (RFP), or any other applicable requirement of the CAA. The State supplemented its SIP revision with a July 11, 2019 letter in order to address the requirements of section 110(l) of the CAA.

III. What is the EPA's Analysis of Missouri's SIP Revision Request?

According to the January 15, 2019, letter from the Missouri Department of Natural Resources (MoDNR), available in the docket for this proposed action, Missouri rescinded 10 CSR 10-5.440, *Control of Emissions from Bakery Ovens* because the only source subject to the rule ceased operations in 2012. The state asserts in their submission to the Agency that this rule is no longer

necessary for controlling emissions of volatile organic compounds (VOC's) because there are no existing sources subject to the rule and new sources would be controlled by other rules.

In its supplemental submission dated July 11, 2019, MoDNR notes that the purpose of 10 CSR 10-5.440, Control of Emissions From Bakery Ovens, was to reduce VOC emissions from bakery ovens located in the St. Louis nonattainment area, which at the time of promulgation (state effective Date: December 30, 1996), included the City of St. Louis and the counties of Franklin, Jefferson, St. Charles, and St. Louis (hereinafter referred to in this document as the "St. Louis Area").¹ The rule applied to new or existing commercial bakeries with potential VOC emissions greater than 100 tons per year (tpy).

MoDNR stated that following rescission of this rule, any new source is required to meet New Source Review (NSR) in attainment or attainment/unclassifiable areas, and for nonattainment areas, Nonattainment New Source Review (NANSR) in the St. Louis Area.

EPA agrees that in the St. Louis nonattainment area for the 2015 ozone standard, which includes St. Louis City and the counties of Franklin (partial; Boles Township), Jefferson, St. Charles, and St. Louis, any new sources or major modifications of existing sources are subject to NANSR permitting.² Under NANSR, a new major source or major modification of an existing

¹ These counties were previously designated for nonattainment for ozone for the 1979, 1997 and 2008 standards. They are currently designated attainment for each of those standards.

² <https://www.federalregister.gov/documents/2021/06/14/2021-11454/revised-air-quality-designations-for-the-2015-ozone-national-ambient-air-quality-standards>

source with a PTE of 100 tpy or more of any NAAQS pollutant is required to obtain a NANSR permit when the area is in nonattainment, which requires an analysis of Lowest Achievable Emission Rate (LAER) in addition to an air quality analysis, an additional impacts analysis and emission offsets. LAER is defined in § 51.165(a)(1)(xiii), in pertinent part, "... for any source, the more stringent rate of emissions based on the following: (A) The most stringent emissions limitation which is contained in the implementation plan of any State for such class or category of stationary source, unless the owner or operator of the proposed stationary source demonstrates that such limitations are not achievable; or (B) The most stringent emissions limitation which is achieved in practice by such class or category of stationary sources. This limitation, when applied to a modification, means the lowest achievable emissions rate for the new or modified emissions units within or stationary source. In no event shall the application of the term permit a proposed new or modified stationary source to emit any pollutant in excess of the amount allowable under an applicable new source standard of performance."³

Therefore, any new bakery oven that would have been subject to 10 CSR 10-5.440, in the St Louis ozone Nonattainment Area, will be subject to NANSR permitting which would result in a LAER limit at least as stringent as the limit in this rule in addition to the requirement to offset the emissions.

³ <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-C/part-51/subpart-I>

In the rest of Franklin County (the portions that do not include Boles Township), any new sources or major modifications of existing sources are subject to NSR permitting. Under NSR, for attainment or attainment/unclassifiable areas, a new major source or major modification of an existing source with a potential to emit (PTE) of 250 tpy or more of any NAAQS pollutant is required to obtain a Prevention of Significant Deterioration (PSD) permit. Sources with a PTE greater than 100 tpy of VOC's, but less than 250 tpy, are required to obtain a minor permit in accordance with Missouri's NSR permitting program, which is approved into the SIP⁴. In the Final Area Designations for the 2015 Ozone National Ambient Air Quality Standards (NAAQS) Technical Support Document (TSD) EPA observes that emissions from sources outside Boles Township are relatively low, with levels less than the more densely populated City of St. Louis and five other counties in the area of analysis.⁵ As noted in the TSD, there are no other large sources of VOC or NOx in Franklin County, outside of Boles Township, which remains a nonattainment area and therefore subject to NANSR permitting. Therefore, EPA believes that any newly permitted NSR or minor NSR bakery ovens in Franklin County would have little to no impact on the St Louis Area ozone levels.

Therefore, EPA agrees with the State that approving this SIP revision will not have an adverse impact on air quality

⁴ EPA's latest approval of Missouri's NSR permitting program rule was published in the Federal Register on October 11, 2016. 81 FR 70025.

⁵ https://www.epa.gov/sites/default/files/2021-05/documents/st_louis_mo-il_tsd_remant_final.pdf

because the only source subject to the rule has permanently shutdown and new sources would be subject to NANSR, NSR and minor NSR in the St. Louis Area. As stated above, new bakery ovens with a PTE of 100 tpy or more of VOC's would be very well controlled in all areas where 10 CSR 10-5.440 previously applied.

Further, the rescission of this rule from the SIP will have no impact on any approved maintenance plan. On September 20, 2018, the EPA redesignated the St. Louis, Missouri area to attainment of the 2008 ozone NAAQS. In the state's maintenance plan submittal for this standard, this rule was not relied upon. The EPA agrees with this analysis.

For these reasons, EPA proposes to determine that the SIP revision submission meets the substantive requirements of the CAA, including section 110 and implementing regulations.

EPA is proposing to approve this SIP revision.

IV. Have the Requirements for Approval of a SIP Revision Been Met?

The State submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V. The State provided public notice on this SIP revision from May 15, 2018 to August 2, 2018 and received 11 comments from the EPA. Missouri received 11 comments from the EPA that related to Missouri's lack of an adequate demonstration that the rule could be removed from the SIP in accordance with

section 110(l) of the CAA. Missouri's July 11, 2019 letter addressed the EPA's comments. In addition, as explained above, the revision meets the substantive SIP requirements of the CAA, including section 110 and implementing regulations.

V. What Action is the EPA Taking?

The EPA is proposing to approve Missouri's request to rescind 10 CSR 10-5.440 from the SIP because the rule applied to a single source that has permanently ceased operations and it therefore no longer serves to reduce emissions in the St. Louis Area. Furthermore, any new sources or major modifications of existing sources in the St. Louis Area are subject to NSR permitting.⁶ We are processing this as a proposed action because we are soliciting comments on this proposed action. Final rulemaking will occur after consideration of any comments.

VI. Incorporation by Reference

In this document, the EPA is proposing to amend regulatory text that includes incorporation by reference. As described in Sections II, III, and V of this preamble and set forth below in the proposed amendments to 40 CFR part 52, the EPA is proposing to remove provisions of the EPA-Approved Missouri Regulations from the Missouri State Implementation Plan, which is incorporated by reference in accordance with the requirements of 1 CFR part 51.

VII. Statutory and Executive Order Reviews

⁶ "NSR Permitting" includes PSD permitting in areas designated attainment and unclassifiable, NANSR in areas designated nonattainment and minor source permitting.

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of the National Technology Transfer and Advancement Act (NTTA) because this rulemaking does not involve technical standards; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control,
Incorporation by reference, Ozone, Volatile organic compounds.

Dated: _____

April 27, 2022.

Meghan A. McCollister,
Regional Administrator,
Region 7.

For the reasons stated in the preamble, the EPA proposes to amend 40 CFR part 52 as set forth below:

PART 52--APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart AA-Missouri

§52.1320 [Amended]

2. In §52.1320, the table in paragraph (c) is amended by removing the entry “10-5.440” under the heading “Chapter 5–Air Quality Standards and Air Pollution Control Regulations for the St. Louis Metropolitan Area”.

[FR Doc. 2022-09468 Filed: 5/5/2022 8:45 am; Publication Date: 5/6/2022]